

LICENSING COLLABORATIVE CHILD CARE PROGRAMS

Collaborations between child care centers, Head Start Programs and public and private 3-year old kindergarten (3-K), 4-year old kindergarten (4-K) and 5-year old kindergarten (5-K) programs or early childhood special education programs are becoming more familiar in communities around Wisconsin. These collaborative programs are designed to meet the needs of children and families in programs that provide services in locations that are familiar to the children and minimize transitions between programs and services.

Listed below are answers to the most frequently asked questions regarding the impact the child care licensing laws and the Wisconsin Shares Child Care Subsidy payment regulations have on collaborative programs.

1. What is the difference between a child care center and a preschool?

There is no difference between a child care center and a preschool or nursery school when it comes to child care licensing. Because preschools typically operate for 2 1/2 to 3 1/2 hours per session, some of the licensing rules do not apply. Some rules that may not apply are those related to serving meals, providing naps, programming for the beginning and end of the day and those rules related to the care of infants and toddlers and school-age children unless the program serves children of these ages.

2. When does a program need to have a license to operate a child care center?

The Wisconsin Child Care licensing law is found in s. 48.65 Wis. Stats., and says in pertinent part that:

- (1) *No person may for compensation provide care and supervision for 4 or more children under the age of seven for less than 24 hours a day unless that person obtains a license to operate a day care center from the department. ...*
- (2) *This section does not include any of the following:*
 - (a) *A relative or guardian of a child who provides care and supervision for the child.*
 - (b) *A public or parochial school.*
 - (c) *A person employed to come to the home of the child's parent or guardian for less than 24 hours a day.*
 - (d) *A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.*

3. Do child care programs operated by public schools need to be licensed?

No. The law s. 120.13(14), Stats., says in pertinent part that:

- (14) *"Day Care Programs. Establish and provide or contract for the provision of day care programs for children. The school board may receive federal or state funds for this purpose ... Day care programs established under this subsection shall meet the standards for licensed day care centers established by the department of health and family services."*

4. Do child care programs operated by private schools need to be licensed?

No. Private schools do not need to be licensed to operate a child care center except as it applies to Wisconsin Shares Child Care Subsidy payments as noted in question # 19 below. Private schools are defined in the state education statutes (see question #5). Parochial schools and private schools have the same definition per the Department of Health and Family Services and the Department of Public Instruction.

5. What are the state requirements for private schools?

Private school means an institution with a private educational program that meets all of the criteria under s. 118.165(1) or is determined to be a private school by the state superintendent under s. 118.167.

118.165 Private schools.

- (1) *An institution is a private school if its educational program meets all of the following criteria:*
 - (a) *The primary purpose of the program is to provide private or religious-based education.*
 - (b) *The program is privately controlled.*
 - (c) *The program provides at least 875 hours of instruction each school year.*
 - (d) *The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program's religious doctrines.*

- (e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15(1)(a).*
 - (f) The pupils in the institution's educational program, in the ordinary course of events, return annually to the home of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under s. 48.60(1).*
 - (2) An institution may request the state superintendent to approve the institution's educational program as a private school. The state superintendent shall base his or her approval solely on the criteria under sub. (1).*
- 118.167 Private School Determination by State Superintendent. If an association that regulates or accredits private educational institutions in this state submits an affidavit to the state superintendent attesting that the institution meets or exceeds all of the criteria under s. 118.165 and the state superintendent finds that the institution does meet or exceed all of the criteria under s. 118.165, the state superintendent shall determine that the institution is a private school. If at any time the state superintendent finds that an institution determined to be a private school under this section no longer meets the criteria under s. 118.165, the state superintendent may withdraw the determination.*

In addition, the facility in which the school is located would have to meet the same building code requirements that are applied to public schools. The school would be a private business and would have to adhere to certain employment-related laws. The school simply notifies the district in which it is located that it will be operating a private school. The Department of Public Instruction is notified by the local public school district that a private school is operating and the private school must file an enrollment report form (PI-1207) each September.

For more information on private schools or a list of private schools in Wisconsin, see the Department of Public Instruction website at: <http://www.dpi.state.wi.us/dpi/dfm/sms/private.html>

6. Are there rules that say when a program has to become a private school?

The definition of a private school does not mention specific grade levels. However, if children age 6 and up are not enrolled in a public school, a private school or a home-based program, their parents could be found to be in violation of the compulsory school attendance law. In addition, the child care licensing law requires that programs that care for 4 or more children under the age of 7 need to be licensed as a child care center unless they are a public, parochial or private school. Therefore, if a program wanted to offer any grades above kindergarten, it would need to be a private school so that those children aged 6 and older would not be considered truant.

7. Do collaborative 3-K, 4-K or Early Childhood Special Education programs that are located in a public school building and operated jointly with a public school and a child care or Head Start program need to be licensed?

If the public school is assuming the responsibility for the collaborative program, the program does not need to be licensed. If responsibility for the collaborative program is shared by the partners in the collaboration, the child care or Head Start program must be licensed. A collaboration or partnership agreement that has been signed by all the parties in the collaborative will be used to determine who has responsibility for the collaborative program (see question #14).

8. Do collaborative 3-K, 4-K or Early Childhood Special Education programs that are operated jointly with a private school and a child care or Head Start program need to be licensed?

If the private school is assuming the responsibility for the collaborative program (and the private school does not wish to receive child care subsidy reimbursement as specified in question #19 below), the program does not need to be licensed. If responsibility for the collaborative program is shared by the partners in the collaboration or the private school wishes to be eligible to receive child care subsidy payments, the program must be licensed. A collaboration or partnership agreement signed by all the parties in the collaborative will be used to determine who has responsibility for the collaborative program (see question #14).

Note that an Early Childhood Special Education program can only provide services through an Individualized Education Program to children in licensed child care programs. If the private school is not licensed, the school would provide special education through an Individualized Service Plan. More information can be found at: <http://www.dpi.state.wi.us/dpi/dlsea/een/bul99-07.html>.

9. How do the child care licensing rules apply when a collaborative 3-K or 4-K program operated by a public school and a licensed child care or Head Start program is located in a licensed child care or Head Start setting?

The licensed center must meet the applicable child care licensing rules. If there is a public school employee present (i.e. working as a teacher in the collaborative program) the public school is responsible for maintaining staff information including background checks. Supervision of the public school employee and program planning responsibilities must be addressed in the collaborative or partnership agreement (see question #14).

10. How do the child care licensing rules apply when 2 child care programs (for instance, a child care program and a Head Start program) occupy space in the same building but operate independently?

If no collaborative programming is going on and children remain with one program for an entire session, each program is licensed separately. See question #12 for information about programs operated collaboratively.

11. How do the child care licensing rules apply when a public school rents space in the public school to a child care program?

The child care center is licensed under the child care licensing rules.

12. How do the child care licensing rules apply when a Head Start program and a child care program operate collaboratively?

There are two options available to these types of programs depending on the specifics of the collaborative or partnership agreement between the agencies.

- If both programs equally share responsibility for meeting the licensing rules a single license is issued in the name of both agencies.
- If either the Head Start or the child care center has sole responsibility for ensuring that the licensing rules are met, then a license is issued in that agency's name.

13. How do the child care licensing rules apply when a collaborative 3-K, 4-K or Early Childhood Special Education program operates in a public school building with a child care or Head Start program?

The child care or Head Start program must be licensed unless the school district assumes responsibility for the complete program as described under question #8. The child care or Head Start program must meet the licensing requirements. Caregiver background checks must be completed on all staff of the licensed child care or Head Start program. School district personnel who may be involved in the collaborative program must meet the background check requirements of the school district. Each agency is responsible for maintaining records of the staff and children for their program. Other responsibilities should be defined in an interagency agreement (see question #14).

14. What should be included in an interagency agreement for collaborative programs?

A collaboration or partnership agreement signed by all the parties in the collaborative will be used to determine who has responsibility for the collaborative program. Interagency agreements should include, but are not limited to:

- A mission, goal or purpose statement;
- Roles and responsibilities of each agency;
- Parameters of collaboration, e.g., joint activities, shared staff expertise, or shared resources;
- Programming responsibilities, e.g. building maintenance, outdoor play space requirements, transportation, parent outreach and involvement;
- Maintenance of student records;
- Staff issues, e.g., staff supervision, joint planning time, background verification
- Timelines;
- Financial responsibility, e.g., insurance coverage, space rental, contractual arrangements;
- Definitions and/ or common uses of terminology; and
- Dispute resolution.

15. Can child care programs access Wisconsin Shares Child Care Subsidy Program dollars when they are offering collaborative 3-K, 4-K, or 5-K for children enrolled in the child care program and Wisconsin Shares eligible children are participating in this programming?

Yes. Wisconsin Shares Child Care Subsidy policy supports the authorization of the hours of care needed while a child is in a regulated child care setting. When a child care setting additionally offers collaborative programming for Head Start, 3-K, 4-K, or 5-K programs, the full amount of hours should be authorized—up to the total amount of hours of care needed while the parent is in an approved activity. The parent is responsible for paying for any costs when the child is in care while the parent is not in an approved activity.

16. Will full-day Wisconsin Shares authorizations be made if the child is in care only part day?

No. Wisconsin Shares Child Care Subsidy authorizations only cover care for the amount of hours needed for the parent to remain in their approved activity. Full-time hours will be authorized only when the parent needs full-time care in order to be in an approved activity. Authorizations are made for the specific amount of combined hours of care needed.

17. Can Wisconsin Shares be accessed if the child is only enrolled in a Head Start program or a 3-K, 4-K or 5-K program hours operated by a public or private school?

No. Wisconsin Shares Child Care Subsidy can not be authorized for Head Start, 3-K, 4-K or 5-K hours that are not part of a collaboration and do not offer regulated child care services.

18. If a Head Start or public school program offers “wrap-around” services to provide care to children outside of Head Start, 3-K or 4-K program hours, can Wisconsin Shares be used?

Yes. Wisconsin Shares Child Care Subsidy can be authorized for the hours the child attends the “wrap-around” child care program.

19. Are private school child care programs eligible to receive reimbursement from the Wisconsin Shares Child Care Subsidy program?

Private school child care programs are not eligible to receive subsidies from the Wisconsin Shares Child Care Subsidy program unless the child care program is licensed by the Department of Health and Family Services or, if the program is not required to be licensed, certified by the county in which the care is provided.